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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Dennis R. Miller, an individual, and
Omni Block, a Nevada Corporation,

Case No.: 2:19-CV-02213-JCM-DJA

Plaintiff,

v.

Edward M. Weinmann, an individual,
and Advanced Masonry Consulting Inc.,
a Florida Corporation,

EXPARTE MOTION TO EXTEND TIME
TO SERVE DEFENDANTS; AND
PROPOSED ORDER

Defendants.

Dennis R. Miller (“Miller”), an individual, and Omni Block (collectively “Plaintiffs”) file this ExParte Motion for Additional Time to Serve the Complaint in this action on Defendants Edward M. Weinmann (“Weinmann”), an individual, and Advanced Masonry Consulting Inc. (“Advanced Masonry”) (collectively “Defendants”).

BACKGROUND

Plaintiffs filed their Complaint in this action on December 23, 2019. (Dkt. No. 1). The parties attempted to resolve the matter for approximately seventy (70) days through early March. Unfortunately, the settlement discussions did not result in a resolution. Consequently, on or about March 3, 2020, Plaintiffs, through counsel, requested that ABC Legal, a process service company located in Plantation, Florida serve Defendants. Service attempts have been made at

1 Mr. Wienmann's last known address, his girlfriend's address and his employer's address, all to
 2 no avail although the girlfriend does acknowledge she knows Mr. Weinmann. (see, Exhibit A).
 3 Attempts to serve Advanced Masonry have also been attempted, again to no avail, at the address
 4 listed in its LLC filing with the Florida Secretary of State (see, Exhibit B). Unfortunately,
 5 Defendant Advanced Masonry is not adhering to Florida Statute § 48.091(2) whereby “[E]very
 6 corporation shall keep the registered office open from 10 a.m. to 12 noon each day except
 7 Saturdays, Sundays, and legal holidays, and shall keep one or more registered agents on whom
 8 process may be served at the office during these hours.” Indeed, the address provided to the
 9 Florida Secretary of State as the registered agent address (1061 NW 78TH TERRACE,
 10 PLANTATION, FL 33322) for Defendant Advanced Masonry belongs to a residence not a
 11 business and the residents have nothing to do with Defendant Advanced Masonry.

12 It is not known whether or not Defendants are intentionally evading service but efforts
 13 will need to continue to effectuate service. Additionally, the current COVID-19 outbreak is sure
 14 to cause delay with the continued efforts to effectuate service. Accordingly, Plaintiffs request an
 15 additional sixty (60) days to serve Defendants the Complaint and Summons in this matter.

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **Applicable Federal Law**

18 Fed. R. Civ. Pro. Rule 4(m) reads “[I]f a defendant is not served within 90 days after the
 19 complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss
 20 the action without prejudice against that defendant or order that service be made within a
 21 specified time. But if the plaintiff shows good cause for the failure, the court must extend the
 22 time for service for an appropriate period.” In this instance, the 90-day period to serve
 23 Defendants expired on March 23, 2020 and Defendants, as set forth above, have yet to be served.
 24 Because Defendants are domiciled in Florida, service is proper by “following state law for
 25 serving a summons in an action brought in courts of general jurisdiction in the state where the
 26 district court is located or where service is made...” Fed. R. Civ. Pro. Rule 4(e) (as incorporated
 27 by reference into Fed. R. Civ. Pro. Rule 4(h)).

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The Florida Rules

Plaintiffs, through ABC Legal, are continuing efforts to serve Defendants pursuant to Fla. R. Cic. Pro. §1.070(b) which states, in part, “[S]ervice of process may be made by an officer authorized by law to serve process, but the court may appoint any competent person not interested in the action to serve the process.” Defendants do not have a permanent presence in Nevada where they can be served directly so service in Florida is the only available option.

At this stage, ABC Legal is planning on a stakeout at Mr. Weinmann's girlfriend's house so we expect service to happen soon and certainly within the extension of sixty (60) days requested herein.

CONCLUSION

Based on the foregoing, Plaintiffs contend that good cause supports an extension of sixty (60) days from March 23, 2020 to May 22, 2020 serve Defendants the Complaint and Summons in this action.

DATED this 25th day of March 2020.

Respectfully submitted,

FISHERBROYLES, LLP

/s/ Rob L. Phillips

ROB L. PHILLIPS, Esq.
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5670 Wilshire Blvd., Suite 1800
Los Angeles, CA 90036
Telephone: (702) 518-1239
Counsel for Plaintiffs

IT IS SO ORDERED

DATED: March 27, 2020

Daniel J. Albrechts
United States Magistrate Judge

EX PARTE MOTION TO EXTEND TIME TO SERVE DEFENDANTS

From: noreply@abclegal.com
To: Rob Phillips
Subject: [External Sender]Service Attempted for Reference # OmniBlock
Date: Saturday, March 7, 2020 8:56:47 AM

A service attempt was performed on your order!

Reference #: **OmniBlock**

Case #: **2:19-CV-02213-JCM-DJA**

Your Process Server: **Miriam Marquez De La Plata**

Person(s) To Be Served: **EDWARD M. WEINMANN**

Date/Time: **March 07 2020 11:50 AM**

Address: **1061 NW 78TH TERRACE, PLANTATION, FL 33322**

Outcome: **No answer at door, no movement inside, no lights and no noise inside. No vehicles in driveway.**

To contact us, view your order progress, and access photos and documents click [here](#).

From: noreply@abclegal.com
To: Rob Phillips
Subject: [External Sender]Service Attempted for Reference # OmniBlock
Date: Monday, March 9, 2020 7:21:18 AM

A service attempt was performed on your order!

Reference #: **OmniBlock**

Case #: **2:19-CV-02213-JCM-DJA**

Your Process Server: **Miriam Marquez De La Plata**

Person(s) To Be Served: **ADVANCED MASONRY CONSULTING INC.**

Date/Time: **March 09 2020 10:15 AM**

Address: **1061 NW 78TH TERRACE, PLANTATION, FL 33322**

Outcome: Per AIDA SOL, RESIDENT, an Hispanic female contact approx. 45-55 years of age, 5'6"-5'8" tall, weighing 160-180 lbs with brown hair with an accent; subject unknown. She stated they are renting that house and moved in at the beginning of this month. They are from Puerto Rico and don't know defendant. We spoke Spanish only.

To contact us, view your order progress, and access photos and documents click [here](#).

From: noreply@abclegal.com
To: Rob Phillips
Subject: [External Sender]Service Attempted for Reference # OmniBlock
Date: Saturday, March 14, 2020 11:44:40 AM

A service attempt was performed on your order!

Reference #: **OmniBlock**

Case #: **2:19-CV-02213-JCM-DJA**

Your Process Server: **April Lewis**

Person(s) To Be Served: **EDWARD M. WEINMANN**

Date/Time: **March 14 2020 02:43 PM**

Address: **130 SW 63RD TERRACE, PLANTATION, FL 33317**

Outcome: **No answer at door, no movement inside, no lights and no noise inside. Ring doorbell no answer bike in driveway covered**

To contact us, view your order progress, and access photos and documents click [here](#).

From: noreply@abclegal.com
To: Rob Phillips
Subject: [External Sender]Service Attempted for Reference # OmniBlock
Date: Monday, March 16, 2020 8:20:42 AM

A service attempt was performed on your order!

Reference #: **OmniBlock**

Case #: **2:19-CV-02213-JCM-DJA**

Your Process Server: **Vernon Jacobs Jr.**

Person(s) To Be Served: **ADVANCED MASONRY CONSULTING INC.**

Date/Time: **March 16 2020 11:15 AM**

Address: **8500 NW 36TH AVE, MIAMI, FL 33147**

Outcome: **Per JOHN DOE, WHO REFUSED TO GIVE NAME, PERSON IN CHARGE, a black-haired Hispanic male contact approx. 45-55 years of age, 5'4"-5'6" tall and weighing 200-240 lbs with an accent and glasses; subject moved. This is FSS company (florida silica sand) not advanced masonry consulting inc. Edward Weinmann is a outsourced salesman that is based in west palm beach. Phone number 3052068517**

To contact us, view your order progress, and access photos and documents click [here](#).

From: noreply@abclegal.com
To: Rob Phillips
Subject: [External Sender]Bad Address Discovered for Reference # OmniBlock
Date: Monday, March 16, 2020 9:20:42 AM

We tried to serve **ADVANCED MASONRY CONSULTING INC.** but found the address is no longer valid.

Reference #: **OmniBlock**

Person(s) To Be Served: **ADVANCED MASONRY CONSULTING INC.**

Address: **8500 NW 36TH AVE, MIAMI, FL 33147**

Identified on: **03/16/2020**

Reason: **Per JOHN DOE, WHO REFUSED TO GIVE NAME, PERSON IN CHARGE, a black-haired Hispanic male contact approx. 45-55 years of age, 5'4"-5'6" tall and weighing 200-240 lbs with an accent and glasses; subject moved. This is FSS company (florida silica sand) not advanced masonry consulting inc.**

Edward Weinmann is a outsourced salesman that is based in west palm beach.

Phone number 3052068517

We need a new address to try to serve **ADVANCED MASONRY CONSULTING INC..**

We can help! Request a Locate and Serve [here](#).

Already have another address? Add it [here](#).

From: noreply@abclegal.com
To: Rob Phillips
Subject: [External Sender]Service Attempted for Reference # OmniBlock
Date: Monday, March 16, 2020 2:10:28 PM

A service attempt was performed on your order!

Reference #: **OmniBlock**

Case #: **2:19-CV-02213-JCM-DJA**

Your Process Server: **April Lewis**

Person(s) To Be Served: **EDWARD M. WEINMANN**

Date/Time: **March 14 2020 02:45 PM**

Address: **130 SW 63RD TERRACE, PLANTATION, FL 33317**

Outcome: **Per TRACY OWNER OF HOME, RESIDENT, a white female contact approx. 45-55 years She is the only occupant and knows Edward but states he doesn't reside here**

To contact us, view your order progress, and access photos and documents click [here](#).

From: noreply@abclegal.com
To: Rob Phillips
Subject: [External Sender]Bad Address Discovered for Reference # OmniBlock
Date: Wednesday, March 18, 2020 4:19:16 PM

We tried to serve **EDWARD M. WEINMANN** but found the address is no longer valid.

Reference #: **OmniBlock**

Person(s) To Be Served: **EDWARD M. WEINMANN**

Address: **130 SW 63RD TERRACE, PLANTATION, FL 33317**

Identified on: **03/14/2020**

Reason: Per **TRACY OWNER OF HOME, RESIDENT**, a white female contact approx. 45-55 years She is the only occupant and knows Edward but states he doesn't reside here

We need a new address to try to serve **EDWARD M. WEINMANN**.

We can help! Request a Locate and Serve [here](#).

Already have another address? Add it [here](#).

From: noreply@abclegal.com
To: Rob Phillips
Subject: [External Sender]New Message for Reference # OmniBlock
Date: Wednesday, March 25, 2020 12:07:41 PM

Hmm understood. We can reattempt the girlfriend address but if you need our server to hang out and wait, it will be a stakeout. We charge \$60 per hour on a stakeout, with a minimum of 1 hour. We also need at least 48 hours to set it up and for you to let us know how long my server should wait for either in the morning or evening.

Otherwise, I can just tell our server to attempt in late evening or early morning but we can only do personal service. Subservice is not allowed if individual is not a co-resident.

Please advise.

Click [here](#) to provide additional details or comments. Click [here](#) to take our customer satisfaction survey.

-----Original Inquiry-----

Can you try service for both defendants at:

130 SW 63rd Terrace (girlfriend's house)
Plantation, FL 33317

Florida Silica Sand Company (his employer)
8500 NW 36th Ave.
Miami, FL 33147


[Previous On List](#) [Next On List](#) [Return to List](#)

[No Events](#) [No Name History](#)

Detail by Entity Name

Florida Profit Corporation

ADVANCED MASONRY CONSULTING, INC.

Filing Information

Document Number P18000017081
 FEI/EIN Number 82-4538127
 Date Filed 02/20/2018
 State FL
 Status ACTIVE

Principal Address

1061 NW 78th Ter
 PLANTATION, FL 33322

Changed: 02/08/2019

Mailing Address

1061 NW 78th Ter
 PLANTATION, FL 33322

Changed: 02/08/2019

Registered Agent Name & Address

WEINMANN, EDWARD M
 1061 NW 78th Ter
 PLANTATION, FL 33322

Name Changed: 02/08/2019

Address Changed: 02/08/2019

Officer/Director Detail

Name & Address

Title P

WEINMANN, EDWARD M
 1061 NW 78th Ter
 PLANTATION, FL 33322

Title VP

WEIR, TRACIE M
 130 SW 63RD TERRACE
 PLANTATION, FL 33317

Title S

WEIR, TRACIE M
 130 SW 63RD TERRACE
 PLANTATION, FL 33317

EXHIBIT B

Title T